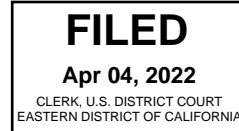


Randy Perez bk # AR 2930
 Name and Prisoner Booking Number
Wasco State Prison
 Place of Confinement
P.O. Box 4400 A-3 #
 Mailing Address
Wasco, C.A. 93380
 City, State, Zip Code



(Failure to notify the Court of your change of address may result in dismissal of this action.)

IN THE UNITED STATES DISTRICT COURT
 FOR THE EASTERN DISTRICT OF CALIFORNIA

Randy Perez)
 (Full Name of Plaintiff) Plaintiff,)
 v.)
 (1) G. Cervantes (Dental assistant))
 (Full Name of Defendant) Sued in their individual capacity)
 or as the court deems fit)
 (2))
 (3))
 (4))
 Defendant(s).)
☐ Check if there are additional Defendants and attach page 1-A listing them.

CASE NO. 1:22-cv-00390-BAM (PC)
 (To be supplied by the Clerk)

CIVIL RIGHTS COMPLAINT
 BY A PRISONER

Jury Trial Demanded

- ☒ Original Complaint
☐ First Amended Complaint
☐ Second Amended Complaint

A. JURISDICTION

- This Court has jurisdiction over this action pursuant to:
 - ☒ 28 U.S.C. § 1343(a); 42 U.S.C. § 1983
 - ☐ 28 U.S.C. § 1331; Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971).
 - ☐ Other: _____
- Institution/city where violation occurred: Wasco State Prison

B. DEFENDANTS

1. Name of first Defendant: Ms. G. Cervantes. The first Defendant is employed as:
Medical Dental assistant/staff at Wasco State Prison
(Position and Title) (Institution)
2. Name of second Defendant: _____. The second Defendant is employed as:
_____ at _____
(Position and Title) (Institution)
3. Name of third Defendant: _____. The third Defendant is employed as:
_____ at _____
(Position and Title) (Institution)
4. Name of fourth Defendant: _____. The fourth Defendant is employed as:
_____ at _____
(Position and Title) (Institution)

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

C. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner? ☐ Yes ☒ No
2. If yes, how many lawsuits have you filed? 0. Describe the previous lawsuits:
 - a. First prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____
 - b. Second prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____
 - c. Third prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.

D. CAUSE OF ACTION**CLAIM I**

1. State the constitutional or other federal civil right that was violated: Assault & Battery
on or around November 17, 2021

2. **Claim I.** Identify the issue involved. Check **only one**. State additional issues in separate claims.

- | | | | |
|--|---|---|---|
| <input type="checkbox"/> Basic necessities | <input type="checkbox"/> Mail | <input type="checkbox"/> Access to the court | <input type="checkbox"/> Medical care |
| <input type="checkbox"/> Disciplinary proceedings | <input type="checkbox"/> Property | <input type="checkbox"/> Exercise of religion | <input checked="" type="checkbox"/> Retaliation |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: | |

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Claim I. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

While at the WSPRison dental facility laying in a vulnerable position in the doctor's chair ready for surgery. Nurse/Doctor assistant G. Cervantes purposely & repetitively used her knee to assault me. G. Cervantes kneed my top & side head more than four aggressive times. I yelled in pain & surprise & said "Hey that hurts alot". She never apologized yet she rolled her eyes & grunted as a show of acknowledgement to her violent act. As a prisoner I have rights to be protected from force & misuse. During the rest of having my tooth filled, while in a defenseless position w/my mouth wide open, G. Cervantes used the dental suction tube to stab the inside of my mouth, my inside cheek, & my gums so hard & bad that blood began to leak from the wounds/lacerations deliberately caused by Ms. G. Cervantes. She acted out of pure anger, frustration, & wanton disrespect because I did not assist her in stopping my treatment & allowing her to go home early. The normal procedure is to hold the suction tube & not stab it into a patient's mouth, aswell as you should maneuver around the patient. Not knee, hit, &/or assault & batter the patient.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

lacerations to my mouth. Numerous cuts, swelling, & mostly bruising on gums & inside cheek.

5. **Administrative Remedies:**

- Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☒ Yes ☐ No
- Did you submit a request for administrative relief on Claim I? ☒ Yes ☐ No
- Did you appeal your request for relief on Claim I to the highest level? ☒ Yes ☐ No
- If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____

CLAIM II

1. State the constitutional or other federal civil right that was violated: Due Process (of policies)
W/Deliberate Indifference on Dr around November 17, 2021.

2. **Claim II.** Identify the issue involved. Check **only one**. State additional issues in separate claims.

- | | | | |
|--|---|---|--|
| <input type="checkbox"/> Basic necessities | <input type="checkbox"/> Mail | <input type="checkbox"/> Access to the court | <input checked="" type="checkbox"/> Medical care |
| <input type="checkbox"/> Disciplinary proceedings | <input type="checkbox"/> Property | <input type="checkbox"/> Exercise of religion | <input type="checkbox"/> Retaliation |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: _____ | |

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Claim II. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

As a state prisoner I have a right to receive unequivocal dental treatment. This is not only the proper process, but policy as well. Deliberate Indifference was showed when G. Cervantes interfered w/the treatment that my doctor had ordered. Once I arrived G. Cervantes went into a tirade towards me about how I need to refuse treatment for that day. She told me that the treatment provided to me as an inmate retained while in prison could more than likely cause me the risk of infection & future problems. And, that the streets were safer, more sterile, & sanitary. At that point I told the doctor I did not agree to get treatment that day. And a small argument ensued. The duty of care owed me as a prisoner is suppose to be the same as owed to private patient's. While working in a prison as while working in a hospital in a free society must coincide. Medical professional's shall never persuade; lie to the patient all to coerce any cancellation's of treatments to play hooky & go to a concert or to a movie. That is 100% unprofessional. G. Cervantes attempted w/all her wisdom, & sheer action's to thwart my need for a serious medical need. Also, she can't interfere w/medical judgement by factor's unrelated to my medical needs.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

physical bleeding, mental anguish, mis-trust of medical professional(s)

5. **Administrative Remedies.**

- Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☒ Yes ☐ No
- Did you submit a request for administrative relief on Claim II? ☒ Yes ☐ No
- Did you appeal your request for relief on Claim II to the highest level? ☒ Yes ☐ No
- If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____

CLAIM III

1. State the constitutional or other federal civil right that was violated: Excessive Force
on December 23, 2021

2. **Claim III.** Identify the issue involved. Check **only one**. State additional issues in separate claims.

<input type="checkbox"/> Basic necessities	<input type="checkbox"/> Mail	<input type="checkbox"/> Access to the court	<input type="checkbox"/> Medical care
<input type="checkbox"/> Disciplinary proceedings	<input type="checkbox"/> Property	<input type="checkbox"/> Exercise of religion	<input type="checkbox"/> Retaliation
<input type="checkbox"/> Excessive force by an officer	<input type="checkbox"/> Threat to safety	<input checked="" type="checkbox"/> Other: <u>Excessive force by an staff</u>	

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Claim III. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.
G. Cervantes exhibited excessive force when she slapped me in the face
w/a dental hygiene pamphlet. There was no cause for any physical contact.
This action of force or physical contact was meant to cause me harm,
discomfort, & pain rather than keep order, Ms. G. Cervantes used force
as a deterrent for me to opt. for an early go home excuse for
her.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).
redness to my eye, embarrassment & humiliation, physiological as well as
psychological angst & bereavement.

5. **Administrative Remedies.**
 - a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☒ Yes ☐ No
 - b. Did you submit a request for administrative relief on Claim III? ☒ Yes ☐ No
 - c. Did you appeal your request for relief on Claim III to the highest level? ☒ Yes ☐ No
 - d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____

If you assert more than three Claims, answer the questions listed above for each additional Claim on a separate page.

E. REQUEST FOR RELIEF

State the relief you are seeking:

Because of actual physical pain procdured, w/mental anguish, risk of life & safety plus the need to need future treatment (s), &/or surgeries to complete the half job done. I am asking that the defendant pay a monetary compensation payment to me in the amount of \$ 272,000. (Two hundred & Seventy two thousand dollars)

I declare under penalty of perjury that the foregoing is true and correct.

Executed on _____
DATE


SIGNATURE OF PLAINTIFF

Aaron Dean Seymar
(Name and title of paralegal, legal assistant, or other person who helped prepare this complaint)

(Signature of attorney, if any)

(Attorney's address & telephone number)

ADDITIONAL PAGES

All questions must be answered concisely in the proper space on the form. If you need more space you may attach more pages, but you are strongly encouraged to limit your complaint to twenty-five pages. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages. Remember, there is no need to attach exhibits to your complaint.

CLAIM IV

1. State the const. vio. : 4th Amendment violation of Objectively unreasonable force.
2. Claim IV ☒ Other: Objectively unreasonable Force.
3. Supporting facts.

The force of verbal curses, dissuading & personal degrading abuse was objectively unreasonable because no professional speaks to clients or patients in such a matter. To yell at me & berate my personal character & intelligence is demeaning unethical & against the medical moral code.

CLAIM V

1. State the Const. Violation: 8th Amendment violation of malicious & sadistic actional violence.
2. Claim V ☒ Threat to safety
3. Supporting facts.

These gross actions of violence in a physical manner, verbal oration, body gesture's & all other unconventional communication(s) G. Cervantes exhibited a show of non-legitimately justified & completely out of proportion to the need of medical treatment upon me or any other person. And, in furtherance, these actions of her's were designed to frighten & degrade myself & was a show of assault with no penological justification becomes repugnant force intended solely to humiliate, & is not de minimis. Convicted or not I have a right to be protected from misuse of force of cruel or in this case "Unusual Punishment".

CLAIM VI

1. State the Const. Violation: Medical Malpractice

2. Claim VI ✓

3. Supporting Facts.

G. Cervantes exhibited numerous violations & constituted medical malpractice which resulted in me ~~incurring~~ physical damage's, wound's, & pain on her behalf against her medical Oath, & her education in the medical field. By Delaying the treatment & showing no concern for me, it is only believed that G. Cervantes failed to properly obtain & review my medical record's properly. These actions can easily cause me injury to have had Knowledge, skill & care ordinarily possessed & employed by members of the profession in good standing. These actions also include ordinary mistake's & inddvertence's.

1. State the Const. Violation: Eventhough certain conditions might not be unconstitutional on their own, they add up to create an overall effect that is unconstitutional.
2. Claim VII ☒
3. Supporting facts.

On or around November 17, 2021 while I was at the Wasco State Prison Dentist, a Ms. G. Cervantes (a medical dental assistant) began to attempt to dissuade & persuade me to refuse treatment for the day all so she could go home early. (This I learned to be a true fact later on Feb 23, 22) she told me every bad excuse & scenario she could such as but not limited to; Risk of infection from receiving treatment in prison apose to going to the streets & that it would be safer, cleaner & more sanitary. This is a ethics violation, & strike against her ethos & moral obligation, when the doctor entered I did what G. Cervantes ill advised me to do. I attempted to refuse service only because of what she scared me into doing. The doctor convinced me otherwise, yet G. Cervantes then told the doc. to reschedule me, He told her "it's only one o'clock we won't leave until 3 o'clock because a back log of patients due to Covid-19,

Once layed down G. Cervantes continuously rammed/kneed her knee into my head, then in the middle of the treatment G. Cervantes used the dental suction tube & rammed, poked, & stabbed it into the inside of my mouth causing major bleeding & severe pain, swelling & irritation w/cut's & lacerations. The doctor made mention of the blood now in his way of procuring his duties.

Then on December 23, 2021 while on a follow-up, Ms. G. Cervantes slapped me in the face w/a dental pamphlet hitting & damaging my eye. And, she berated me by yelling at me to read the paper & stop being slow & unresponsive.

Then on February 10, 2022 a supervising Dental Assistant "Cassie Dominguez" called me in to apologize for G. Cervantes' unprofessional assault & battery on me. Ms. Dominguez said that Ms. Cervantes verbally expressed rage & dismay about having to work & do overtime the day of my treatment, & this was/is the fuel to why I was attacked. This was the reason for her bad, & unprofessional behavior toward's me. She acted maliciously & sadistically to cause me harm with cruel, corporal & unusual excessive force against a prisoner. She violated Constitutional law & state statutes, this is a form of negligence involving medical training or judgement that interfered w/my serious medical needs & caused me physical & mental pain & anguish.